

The Honorable Robert J. Bryan

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA

SEATTLE PACIFIC UNIVERSITY

Plaintiff,

v.

ROBERT FERGUSON, in his official
capacity as Attorney General of Washington

Defendant.

No. 3:22-cv-05540-RJB

STIPULATION TO WITHDRAW
DEFENDANT'S MOTION TO DISMISS
ON THE GROUNDS OF PRUDENTIAL
RIPENESS, STRIKE DISMISSED
RETROSPECTIVE CLAIMS FROM
PLAINTIFF'S FIRST AMENDED
COMPLAINT, AND SET DEADLINE
FOR DEFENDANT'S ANSWER TO
PLAINTIFF'S FIRST AMENDED
COMPLAINT

This stipulation is made and entered into between the parties, by and through their respective counsel, with reference to the following:

1. Plaintiff commenced this action by filing the Complaint on July 27, 2022. ECF No. 1.
2. Defendant moved to dismiss the Complaint arguing that Plaintiff failed to allege an injury, that any alleged injuries are not redressable, that Plaintiff's claims are not ripe, and that *Younger* abstention requires dismissal. ECF No. 15. Plaintiff filed a First Amended Complaint, ECF No. 16, and Defendant moved to dismiss the First Amended Complaint on the same grounds. ECF No. 18.
3. The Court granted Defendant's Motion to Dismiss the First Amended Complaint on October 26, 2022. ECF No. 29. Plaintiff appealed the Court's dismissal. ECF No. 37.

- 1 4. On June 7, 2024, the United States Court of Appeals for the Ninth Circuit affirmed this
2 Court's dismissal order in part, and reversed in part. ECF No. 41. The Ninth Circuit affirmed
3 the Court's dismissal of Counts I, III, IV, V, VIII, and XI, because it determined that SPU
4 failed to allege a cognizable injury in fact for its retrospective claims. The Ninth Circuit
5 concluded that SPU has standing for its prospective pre-enforcement injury claims—Counts
6 II, VI, VII, IX, and X—and reversed the dismissal of those claims. It determined that
7 *Younger* abstention does not support dismissal, and remanded to this Court to consider
8 prudential ripeness. *Seattle Pac. Univ. v. Ferguson*, 104 F.4th 50, 63-66 (9th Cir. 2024).
- 9 5. Plaintiff's position is that this dismissal is without prejudice, and the parties agree that
10 nothing in this stipulation or proposed order will be construed as an alteration or concession
11 of the parties' respective positions on that issue.
- 12 6. On remand, in accord with the Ninth Circuit's June 7, 2024, opinion, the Court ordered the
13 parties to file a proposed briefing schedule on the issue of whether the Plaintiff's remaining
14 claims are prudentially ripe by July 16, 2024. ECF No. 44.
- 15 7. The parties have conferred and stipulate as follows:
- 16 a. Defendant withdraws his motion to dismiss on the grounds of prudential ripeness,
17 ECF No. 18;
- 18 b. In accord with the Ninth Circuit's June 7, 2024, opinion, Counts I, III, IV, V, VIII,
19 and XI, which were dismissed, are stricken from Plaintiff's First Amended Complaint,
20 ECF No. 16; and
- 21 c. Defendant shall file his Answer to the First Amended Complaint by August 12, 2024.
- 22

23 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

24 //

25 //

26 //

27 //

1 DATED this 16th day of July, 2024.

2
3 By: s/ May Che

4 Daniel J. Jeon, WSBA No. 58087
5 May Che, WSBA No. 62261
6 Assistant Attorneys General
7 Wing Luke Civil Rights Division
8 Office of the Attorney General
9 800 Fifth Avenue, Suite 2000
10 Seattle, WA 98104
11 Telephone: (206) 342-6437
12 daniel.jeon@atg.wa.gov
13 may.che@atg.wa.gov

14 *Attorneys for Defendant Robert Ferguson*

By: s/ Lori H. Windham

Daniel J. Ichinaga, WSBA No. 13522
Nathaniel L. Taylor, WSBA No. 27174
Abigail St. Hilaire, WSBA No. 48194
ELLIS, LI & MCKINSTRY PLLC
1700 Seventh Ave., Ste. 1810
Seattle, WA 98101
Telephone: (206) 682-0565
Fax: (206) 625-1052
Email: dichinaga@elmlaw.com
ntaylor@elmlaw.com
asthilaire@elmlaw.com

Lori H. Windham*
Daniel D. Benson*
Laura Wolk Slavis*
THE BECKET FUND FOR RELIGIOUS LIBERTY
1919 Pennsylvania Ave. NW, Ste. 400
Washington, DC 20006
Telephone: (202) 955-0095
Email: lwindham@becketlaw.org
*Admitted Pro Hac Vice

Attorneys for Plaintiff Seattle Pacific University

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was electronically filed with the United States District Court using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

DATED this 16th day of July, 2024.


TIFFANY JENNINGS
Paralegal